

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

RUBEN ROMAN
EUDOSIA CRUZ
and SULIVETTE ROMAN-CRUZ

Plaintiffs

vs

CIVIL 05-2355CCC

MAYOR RAMON A. HERNANDEZ-
TORRES, in his official capacity;
MUNICIPALITY OF JUANA DIAZ
WALBERTO HERNANDEZ (Director of the
Sports and Recreation Department of the
Municipality)
THE COMMONWEALTH
OF PUERTO RICO
HEALTH DEPARTMENT
OF PUERTO RICO
PUERTO RICO'S MEDICAL CENTER
DR. PETER DOE
DR. JANE DOE
RICHARD ROE,
unknown doctors, in their personal capacities
ABC INSURANCE CO.
and XYZ INSURANCE CO., unknown
insurers

Defendants

O R D E R

This action is before us on defendants Ramón Hernández-Torres and Walberto Hernández' Motion for Reconsideration of Order Denying Motion to Dismiss Claims Against Defendants Ramón Hernández-Torres and Walberto Hernández filed October 6, 2006 (**docket entry 48**). The motion is based, essentially, on the following premise: "As a sovereign entity, the State is entitled to immunity from suits, unless that privilege is waived under determined circumstances."

The question of municipal immunity raised by defendants was already addressed by this court:

If defendant is a municipality, municipal agent or an officer thereof, the general rule is that the Eleventh Amendment to the United States Constitution will not bar the action since these entities are not considered arms of the state ... the independence or alter ego status of a political subdivision of a state is

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determined by examining state law. The law that creates a municipality in Puerto Rico provides that it has a legal existence and personality separate and independent from the Government of the Commonwealth of Puerto Rico. Among the general powers that a municipality shall have is the power to sue and be sued, charge and be charged, file complaints and defend itself in the courts of justice and in the administrative bodies. A municipality that is independent in character and functions from the state may be considered a "citizen" for purposes of diversity jurisdiction.

American Conveyor Corporation v. Municipality of Guánica, 614 F. Supp. 922,925 (D. Puerto Rico 1985) (citations omitted) (our emphasis).

For the above-stated reasons, movants are not protected by sovereign immunity and are proper defendants in this action. Accordingly, the Motion for Reconsideration (**docket entry 48**) is DENIED.

SO ORDERED.

At San Juan, Puerto Rico, on October 12, 2006.

S/CARMEN CONSUELO CEREZO
United States District Judge